

Exhibit A

**to the Declaration of Andrew Hatchett in Support of
OptumRx's Motion to Prohibit *Ex Parte* Communications
Regarding Special Master Rulings**

From: Boone, Brian
Sent: Tuesday, August 12, 2025 4:00 PM
To: David R. Cohen (David@SpecialMaster.Law); Elsner, Mike; Pete Weinberger; Paul Farrell
Cc: Hatchett, Andrew; Jonathan Cooper; Porpora, Matthew
Subject: RE: Order on Agenda Item 442

Special Master Cohen:

We have serious concerns about your misdirected email, which we don't believe we have an obligation to delete.

In your email intended for Judge Polster, you wrote the following: "I am happy to report that my gambit worked. See thread below. We will not be receiving an objection to my ruling directing Optum to produce various materials." Even though *ex parte* communications between a judge and a special master about the special master's rulings are improper, you provide a "report" about a "gambit" that you say "worked" because "we" (you and Judge Polster) would not be receiving an objection to your discovery ruling. That communication and any others with Judge Polster that preceded it are improper. See Fed. R. Civ. P. 53 advisory committee's notes to 2003 amendments ("Ex parte communications between a master and the court present troubling questions."). Although we don't know the extent of your communications with Judge Polster, we object to all *ex parte* communications about your rulings, which we have the right to appeal *de novo* to the district court.

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From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Tuesday, July 15, 2025 9:46 PM
To: Elsner, Mike <melsner@motleyrice.com>
Cc: Hatchett, Andrew <Andrew.Hatchett@alston.com>
Subject: Re: Order on Agenda Item 442

EXTERNAL SENDER – Proceed with caution

Sorry, that email was meant for JP. Please delete.
-d

=====
This email sent from:
David R. Cohen Co. LPA

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866-357-3535 fax
www.SpecialMaster.law

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Tuesday, July 15, 2025 9:44 PM
To: Elsner, Mike <melsner@motleyrice.com>; David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Cc: Hatchett, Andrew <andrew.hatchett@alston.com>
Subject: Re: Order on Agenda Item 442

Greetings,

I am happy to report that my gambit worked. See thread below. We will not be receiving an objection to my ruling directing Optum to produce various materials.

-d

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To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Cc: Hatchett, Andrew <andrew.hatchett@alston.com>
Subject: FW: Order on Agenda Item 442

Special Master Cohen,

Andrew's e-mail below accurately reflects our agreement.

Thanks,

Mike



Michael Elsner (he / him)
Attorney at Law

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From: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>
Sent: Tuesday, July 15, 2025 4:51 PM
To: DL - MDL 2804 <dl-mdl2804@motleyrice.com>
Subject: FW: Order on Agenda Item 442

From: Hatchett, Andrew <Andrew.Hatchett@alston.com>
Sent: Tuesday, July 15, 2025 8:43:28 PM
To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Cc: Optum Opioid Team <Optum.Opioid.Team@alston.com>; PEC_Optum <pec_optum@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; pbm@listserv.motleyrice.com <PBM@listserv.motleyrice.com>; PEC-ESI-TEAM <PEC-ESI-TEAM@simmonsfirm.com>; PEC_Optum <pec_optum@listserv.motleyrice.com>
Subject: RE: Order on Agenda Item 442

CAUTION:EXTERNAL

Special Master Cohen,

I write to follow up on discovery agenda topic 442 and your order issued last Thursday (Dkt. 6222). During Friday's hearing, OptumRx expressed multiple concerns with the order, including the compliance deadline (July 24) and the particulars in the second bullet on page 2 related to OptumRx's clinical programs. You denied our request to reconsider or modify your ruling but encouraged the parties to continue to meet and confer on parameters to eliminate issues that OptumRx may otherwise feel compelled to raise in a formal objection.

Since Friday's hearing, we've met with the PEC multiple times (including a phone call and several emails over the weekend). From those calls and emails, we've reached an agreement that will eliminate OptumRx's need to file an objection at this time. Without spelling out every detail of the agreement, OptumRx has agreed to produce all client contracts and available RFP files for the clients in the negotiated non-UHC and UHC sample (aside from a small subset of clients for whom contracts could not be found) within two weeks. OptumRx has also agreed to provide the details covered by the second bullet of your order to the fullest extent it can with the information it has including identifying and producing additional sources that may go beyond the materials covered by the sampling protocol. The PEC has agreed to extend our deadline to do so until August 31. In the interim, we've agreed to provide regular updates to the PEC and to work through any issues we encounter as they arise.

Andrew

D. Andrew Hatchett
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From: Hatchett, Andrew

Sent: Thursday, July 10, 2025 10:11 PM

To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>

Cc: Optum Opioid Team <Optum.Opioid.Team@alston.com>; PEC_Optum <pec_optum@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; pbm@listserv.motleyrice.com; PEC-ESI-TEAM <PEC-ESI-TEAM@simmonsfirm.com>; PEC_Optum <pec_optum@listserv.motleyrice.com>

Subject: Order on Agenda Item 442

Special Master Cohen:

OptumRx would like opportunity to discuss today's order (attached, docket notice below) on Agenda Item No. 442 during tomorrow's hearing. As drafted and filed, we would have no choice but to file an objection. There are certain aspects of your order (in particular, the requirement listed in the second bullet on page 2 that we "identify for each client in the Rochester sample which programs each client was offered, when the offer was made, when the program was adopted or declined by each client, the price offered, and the price paid for each program, and for how long the client participated in the program") that are functionally impossible. Given the limitations of our records and data systems, which I can explain in more detail tomorrow, it would be impossible for us to comply with that portion of the order.

We would have explained those limitations to the PEC, but the first time we ever saw that request was in the PEC's letter to you (it was not included in any discovery request, in any previous correspondence with counsel, or discussed on any previous meet and confer call). But given that it has now made its way into the order, we would like an opportunity to explain why the PEC's request is unworkable.

We also cannot complete the ordered production by July 24, 2025 without violating our contracts with our clients. The timing for compliance with the order (which will hopefully be revised before made final) is something we like an opportunity to discuss. We can provide more context to inform a decision on the timing.

Finally, we would like clarity about what "contractual arrangements with Medicare and Medicaid" the order is requiring us to produce. We do not know how to comply with that request as drafted.

We hope that, with the benefit of an on-the-record discussion, you might reconsider and modify aspects of your order to eliminate our need to file an objection (or to otherwise narrow the issues about which we would need to object). In all events, we believe this agenda topic deserves an on-the-record discussion.

Andrew

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From: ohndecf@ohnd.uscourts.gov <ohndecf@ohnd.uscourts.gov>

Sent: Thursday, July 10, 2025 4:55 PM

To: OHNDdb_CleECF@ohnd.uscourts.gov

Subject: Activity in Case 1:17-md-02804-DAP In Re: National Prescription Opiate Litigation Report of Special Master

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U.S. District Court

NORTHERN DISTRICT OF OHIO

Notice of Electronic Filing

The following transaction was entered by Cohen, David on 7/10/2025 at 4:51 PM EDT and filed on 7/10/2025

Case Name: In Re: National Prescription Opiate Litigation

Case Number: [1:17-md-02804-DAP](https://ecf.ohnd.uscourts.gov/cases/1:17-md-02804-DAP)

Filer: David Cohen

Document Number: [6222](#)

Docket Text:

[Report of Special Master Order Regarding Discovery Agenda Item No. 442 filed by David Cohen. \(Cohen, David\)](#)

1:17-md-02804-DAP Notice has been electronically mailed to:

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